

RELATED CORRESPONDENCE

DOCKETED
USNRC

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION '81 NOV -9 P12:06

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)
)
)
PACIFIC GAS AND ELECTRIC COMPANY)
)
(Diablo Canyon Nuclear Power)
Plant, Units 1 and 2))
)
)
_____)

Docket Nos. 50-275 O.L.
50-323 O.L.



JOINT INTERVENORS' MOTION TO
COMPEL PACIFIC GAS AND ELECTRIC COMPANY
TO ANSWER INTERROGATORIES

The SAN LUIS OBISPO MOTHERS FOR PEACE, SCENIC SHORELINE PRESERVATION CONFERENCE, INC., ECOLOGY ACTION CLUB, SANDRA SILVER, GORDON SILVER, ELIZABETH APFELBERG, and JOHN J. FORSTER ("Joint Intervenors") hereby move the Atomic Safety and Licensing Board ("licensing board") for an order compelling Pacific Gas and Electric Company ("PGandE") to respond to certain interrogatories served upon it by Joint Intervenors on October 7, 1981. Specifically, Joint Intervenors seek responsive answers to the following interrogatories:

- 42. List and describe in detail all analyses and tests conducted by you, your agents, or your consultants with respect to the pressurizer heaters and associated controls. Specify:

* * * *

- (c) the range of test conditions or conditions assumed in the analyses;

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- (e) the results of the tests or analyses;
- (f) any other tests or analyses planned to be conducted prior to full power operation.

61. Describe in detail the current status of the EPRI valve performance testing program. In your response, state:

- (a) when the relief and safety valve testing will be completed;
- (b) Under what conditions (e.g., transition flow, full water flow, saturated steam, etc.) have the relief and safety valves been tested to date;
- (c) whether any of the relief and safety valves tested have failed, suffered galling, or been in any way damaged during the testing, and, if so, describe in detail the circumstances of such occurrences;
- (d) why the relief and safety valve testing program completion date has been delayed and when the program is now scheduled to be completed;
- (e) whether an EPRI block valve testing program is planned and, if so, when it will be completed;
- (f) other than the block valve failures discussed at the Diablo Canyon low power test hearing in May, 1981, whether any of the block valves tested have failed, suffered galling, or been in any way damaged during the testing, and, if so, describe in detail the circumstances of such occurrences;
- (g) whether PGandE has submitted to the NRC a correlation or other evidence to substantiate that the valves tested in the EPRI program demonstrate the functionability of the relief and safety valves installed at Diablo Canyon, and, if so, describe that correlation or other evidence in detail;
- (h) to what extent, if at all, the control circuitry, piping, and supports associated with the Diablo Canyon relief and safety valves have been qualified, and, if so, describe precisely how they have been qualified and the results of any related tests or analyses;
- (i) when the "correlation" referred to in subpart (g) of this interrogatory will be submitted to the NRC.

62. On August 19, 1981, an emergency planning exercise for Diablo Canyon was held in San Luis Obispo. Based on your involvement in that exercise and your knowledge of the involvement of other persons, officials, agencies, or other entities, describe the exercise in detail and include in your response at least the following information:

* * * *

- (s) (1) the types and quantities of emergency response equipment (e.g., communications equipment, respiratory equipment, protective clothing, monitoring equipment, vehicles, helicopters, signs, placards, medical equipment, etc.) assumed or deemed to be available or to have been used during the course of the accident and (2) the types and quantities of such equipment actually available or used;

PGandE's refusal to respond to the above interrogatories is impermissible absent compliance with 10 C.F.R. §2.740(f) of the Commission's regulations. That provision provides that

[f]ailure to answer or respond shall not be excused on the ground that the discovery sought is objectionable unless the person or party failing to answer or respond has applied for a protective order pursuant to paragraph (c) of this section.

10 C.F.R. §2.740(f). No application for a protective order has been filed by PGandE; accordingly, its failure to respond cannot be excused, and an order by this board compelling proper responses is required.

Although PGandE's noncompliance with the proper procedure for objecting to interrogatories is alone sufficient grounds for an order compelling response, the obvious insufficiency of the reasons assigned by PGandE for its refusal to answer the interrogatories in question provides still further basis for such an order. In its October 26, 1981 Answers to Joint Intervenors'

Second Set of Interrogatories ("PGandE Answers"), PGandE simply chose not to respond to Interrogatory 42, paragraphs (c), (e), and (f), assigning no reason whatsoever; its failure to answer this interrogatory is therefore wholly without legal justification.

In response to Interrogatory 61, PGandE interposed the following objection:

The Applicant objects to this interrogatory on the basis of relevancy. The EPRI valve performance testing program is clearly outside the scope of this contention, which concerns the classification of power operated relief valves, block valves and associated circuitry, and compliance with design criteria. The EPRI test program was litigated in the low power hearings which resulted in a license being issued.

PGandE Answers, supra at 36-37 (emphasis added). That objection is without merit. Contention 12, to which Interrogatory 61 relates, states as follows:

Proper operation of power operated relief valves, associated block valves and the instruments and controls for these valves is essential to mitigate the consequences of accidents. In addition, their failure can cause or aggravate a LOCA. Therefore, these valves must be classified as components important to safety and required to meet all safety-grade design criteria.

Memoandum and Order of Atomic Safety Licensing Board (August 27, 1981) (emphasis added).

It is clear from the language of the contention itself, as well as from PGandE's own response, that the proper and reliable operation of PORV's and block valves, which is the focus of the EPRI testing program, is highly relevant to the resolution of contention 12. Indeed, the EPRI test results are the only source

of such information available to the licensing board in its evaluation of whether the valves at Diablo Canyon meet safety-grade or any other design criteria. Moreover, in response to Interrogatory 46, which requests an explanation of PGandE's position on Contention 12, PGandE stated:

There has been a long history of successful operation of relief and block valves representative of DCPV valves under full power operation at other similar plants. Therefore, these valves have been demonstrated to be capable of functioning under required operating conditions.

PGandE Answers, supra at 23 (emphasis added). The validity of this allegation, which constitutes PGandE's own statement of its position on Contention 12, may be adequately explored only if the EPRI test results are made available.^{1/}

PGandE's objection to Interrogatory 62(s) is likewise untenable:

Applicant objects to this question on the basis that it is (a) impossible to answer, (b) overly broad, (c) not fully within the knowledge of the answering party and (d) not designed to lead to admissible evidence.

PGandE Answers, supra at 48.

PGandE's own response indicates the importance of Interrogatory 62(s). It is apparent that PGandE has completely failed to calculate the types and quantities of such vital equipment as protective clothing, respiratory equipment,

^{1/} PGandE's objection that the EPRI program was litigated in low power hearings is specious since EPRI results at that stage of the proceedings were of a highly preliminary nature.

communications equipment, etc., which would be needed and/or available in the event of an emergency. Despite the fact that an adequate inventory of such material is essential to proper emergency response, PGandE's position is apparently that the supply of protective clothing, respiratory equipment, etc. is irrelevant in the event of an emergency. Merely stating the proposition reveals its absurdity. In addition, the fact that in PGandE's view such information is impossible to obtain and overly burdensome reveals in and of itself PGandE's failure to consider carefully this aspect of emergency preparedness.^{2/}

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^{2/} Since PGandE is obligated to answer to the extent information is within its knowledge or available to it, its objection that the data requested is "not fully within the knowledge of the answering party. . ." is without merit.

For the foregoing reasons, Joint Intervenors move this board for an immediate order compelling PGandE to respond to the Interrogatories cited herein.

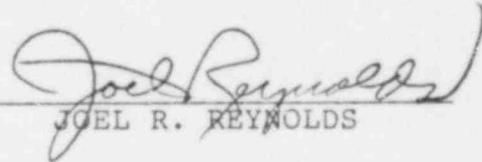
DATED: November 6, 1981

Respectfully submitted,

JOEL R. REYNOLDS, ESQ.
JOHN R. PHILLIPS, ESQ.
Center for Law in the
Public Interest
10951 W. Pico Boulevard
Los Angeles, CA 90064
(213)470-3000

DAVID S. FLEISCHAKER, ESQ.
P. O. Box 1178
Oklahoma City, OK 73101

By



JOEL R. REYNOLDS

Attorneys for Joint Inter-
venors
SAN LUIS OBISPO MOTHERS FOR
PEACE

SCENIC SHORELINE PRESERVATION
CONFERENCE, INC.

ECOLOGY ACTION CLUB
SANDRA SILVER
ELIZABETH APFELBERG
JOHN J. FORSTER

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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of November, 1981, I have served copies of the foregoing JOINT INTERVENORS' MOTION TO COMPEL PACIFIC GAS AND ELECTRIC COMPANY TO ANSWER INTERROGATORIES, mailing them through the U. S. mails, first class, postage prepaid.

Admin. Judge John F. Wolf,
Chairman
Atomic Safety & Licensing
Board
U. S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Glenn O. Bright
Atomic Safety & Licensing
Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Docket & Service Branch
Office of the Secretary
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

William Olmstead, Esq.
Marc R. Staenberg, Esq.
Edward G. Ketchen, Esq.
Office of the Executive Legal
Director - BETH 042
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. Jerry R. Kline
Atomic Safety & Licensing
Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Nancy Culver
192 Luneta
San Luis Obispo, CA 93401

Mr. Fredrick Eissler
Scenic Shoreline Preservation
Conference, Inc.
4623 More Mesa Drive
Santa Barbara, CA 93105

Malcolm H. Furbrush, Esq.
Vice President and General
Counsel
Philip A. Crane, Esq.
Pacific Gas & Electric Company
P. O. Box 7442
San Francisco, CA 94106

Sandra A. Silver
Gordon Silver
1760 Alisal Street
San Luis Obispo, CA 93401

Arthur C. Gehr, Esq.
Snell & Wilmer
3100 Valley Center
Phoenix, AZ 85073

David S. Fleischaker, Esq.
P. O. Box 1178
Oklahoma City, OK 73101

Carl Neiburger
Telegram Tribune
P. O. Box 112
San Luis Obispo, CA 93402

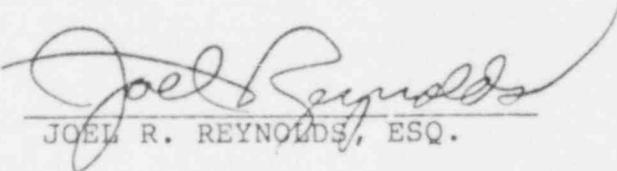
Bruce Norton, Esq.
3216 N. Third Street
Suite 202
Phoenix, AZ 85012

Byron Georgiou, Esq.
Legal Affairs Secretary to
the Governor
State Capitol Building
Sacramento, CA 95814

Janice E. Kerr, Esq.
Lawrence Q. Garcia, Esq.
J. Calvin Simpson, Esq.
California Public Utilities
Commission
5246 State Building
350 McAllister Street
San Francisco, CA 94102

Lawrence Coe Lanpher, Esq.
Hill, Christopher & Phillips
1900 M. Street, N.W.
Washington, D.C. 20035

MHB Technical Associates
1723 Hamilton Avenue
Suite K
San Jose, CA 95725


JOEL R. REYNOLDS, ESQ.